

REMARKS

[0001] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-9, 11-31, 33-46, and 55-59 are presently pending. Claims amended herein are 1, 8, 12, 14, 21, 25, 27-29, 35-37, 40, 44-45, and 58. No claims are withdrawn or cancelled, and no new claims are added.

Statement of Substance of Interview

[0002] The Examiner graciously talked with me—the undersigned representative for the Applicant—on March 11, 2009. Applicant greatly appreciates the Examiner’s willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0003] During the interview, I discussed overcoming the statutory 35 U.S.C. 101 and 112 rejection as well as how the claims differed from the cited references. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0004] The Examiner was receptive to the proposals, specifically amending the independent Claims 1, 21, 29, 37, and 44 to further clarify that a recording component is not included if it is determined that a computer is not authorized to record multimedia content.

[0005] The Examiner indicated that the proposed amendments will overcome the Section 101, 112, 102, and 103 rejections.

[0006] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0007] If the Examiner's reply to this communication is anything other than allowance of all pending claims and the only issues that remain are minor or formal matters, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0008] Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

Claim Amendments

[0009] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 8, 12, 14, 21, 25, 27-29, 35-37, 40, 44-45, and 58 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

[0010] Support for the amendments to claims 1, 8, 12, 14, 21, 25, 27-29, 35-37, 40, 44-45, and 58 may be found in the Specification at least at in paragraphs [0029] and [0040], among others.

Substantive Matters

Claim Rejections under § 112 2nd ¶

[0011] The Examiner rejects Claims 58 under § 112, 2nd ¶, for not providing sufficient antecedent basis for the element of “the user interface.” *See Office Action at 3.* As discussed in the Telephone Interview, the Applicant has amended the dependency of Claim 58 from Claim 37 to Claim 43 for proper antecedent basis. In light of the amendment presented herein, Applicant submits that this rejection is moot. Accordingly, Applicant asks the Examiner to withdraw this rejection.

Claim Rejections under § 101

[0012] Claims 1-9 and 21-28 are rejected under 35 U.S.C. § 101 as allegedly not falling within one of the four statutory categories of invention. Applicant respectfully traverses this rejection. Applicant herein submits that that the Claims of the instant Application are to be construed—now and in the future—to be limited to subject matter deemed patentable in accordance with United States Federal statutes, namely section 101 of Title 35 U.S.C., and as interpreted by appropriate and authoritative Article III entities.

[0013] Furthermore, Applicant has amended the independent Claims 1 and 21 with the following “A computer-implemented method having computer instructions stored on a computer, where the computer instructions are executable by one or more processors.” It is Applicant’s understanding from the

Telephone Interview that these amendments will overcome the 35 U.S.C. § 101 rejection.

[0014] In light of this disclaimer and the amendment presented above, Applicant asserts that these claims are allowable. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0015] If the Examiner maintains the rejection of these claims, then Applicant requests additional guidance as to what is necessary to overcome the rejection.

Claim Rejections under § 102 and § 103

[0016] The Examiner rejects claims 1-9, 15, 16, 18-20, 29-34, 36-40, 42, 55, 57 and 58 under § 102. For the reasons set forth below, the Examiner has not shown that the cited reference anticipates the rejected claims.

[0017] In addition, the Examiner rejects claims 11-14, 17, 21-28, 35, 41, 43-46, 56 and 59 under § 103. For the reasons set forth below, the Examiner has not made a prima facie case showing that the rejected claims are obvious.

[0018] Thus, in light of the amendments presented herein and the decisions/agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks that the 35 U.S.C. § 102 and § 103 rejections be withdrawn and the case be passed along to issuance.

[0019] The Examiner's rejections are based upon the following references alone or in combination:

- **Jaisimha:** *Jaisimha, et al.*, US Patent No. 6,487,663 (issued November 26, 2002);
- **Kimura:** *Kimura*, US Patent No. 6,744,975 (issued June 1, 2004);
- **Horie:** *Horie, et al.*, US Patent Application Publication No. 2002/0094191 (published July 18, 2002); and
- **Hazra:** *Hazra*, US Patent No. 6,510,553 (issued January 21, 2003).

Overview of the Application

[0020] The Application describes a technology for rendering and recording multimedia content at a computer. The multimedia content may be streamed from a source such as an Internet website, received at the computer, and rendered by the computer. The rendering may include recording the multimedia content if the computer is so authorized by adding a recording component to a linked set of components or filters that perform the rendering of the multimedia content. If the computer is not authorized to record the multimedia content, the recording component is disabled or left out; however, the multimedia content may be processed and rendered through the linked set of components without the recording component. *See the Abstract.*

Cited References

[0021] The Examiner cites Jaisimha as the primary reference in the anticipation- and/or obviousness-based rejections. The Examiner cites Kimura and Horie as secondary references, and Hazra as a ternary reference in the obviousness-based rejections.

Jaisimha

[0022] Jaisimha describes a technology for regulating the transmission of media data. In accordance with one embodiment of the invention, a header portion of a media file is encoded to include an access code. The access code corresponds to one or more permitted methods by which the media file may be

transmitted over a network. If the media player receives the media data using a type of transmission that permits storing the media data locally, the media player may transfer the media data to a portable media player. *See Jaisimha Abstract.*

Kimura

[0023] Kimura describes a video and audio multiplex recording apparatus, where an allocation table of a unit video block and a unit audio block is generated in a control section, and a control signal is generated according to the allocation table. *See Kimura Abstract.*

Horie

[0024] Horie describes a record and playback apparatus recording and playing back an image by using a storage medium capable of random accessing. *See Horie Abstract.*

Hazra

[0025] Hazra describes reception of digital multimedia data signals from multiple sources in a stream over a fixed bandwidth communications path by subscribing to a base layer of a first source and a base layer of a second source, and subscribing to an enhancement layer of the first source. *See Hazra Abstract.*

Anticipation Rejections

[0026] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.¹ Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.²

Based upon Jaisimha

[0027] The Examiner rejects claims 1-9, 15, 16, 18-20, 29-34, 36-40, 42, 55, 57 and 58 under 35 U.S.C. § 102(e) as being anticipated by Jaisimha. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0028] Applicant submits that Jaisimha does not anticipate this claim because it does not disclose at least the following features as recited in this claim (with emphasis added):

¹ "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

² See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

- **selectively providing a recording component in the linked set of components to record the multimedia content if the computing device is determined to have the authority to record the multimedia content;** and
- rendering the **multimedia** content with use of the linked set of components, **wherein the linked set of components does not include the recording component if the computing device is determined not to have the authority to record the multimedia content.**

[0029] The Examiner indicates the following with regard to Claim 1:

Consider claims 1 and 29, Jaisimha et al. teach a method comprising: receiving multimedia content from a source (Fig. 5); creating a linked set of components to process the multimedia content (col. 8, lines 28-30 and col. 9, lines 16-23); determining authority to record the multimedia content (col. 13, lines 19-28); providing a recording component in the linked set of components to record the multimedia content if authorized to record the multimedia content (col. 13, lines 19-28); and rendering the multimedia content with use of the linked set of components (col. 12, lines 52-61), with the recording component being omitted if not authorized to record the multimedia content (Fig. 8A, Fig. 8B, and col. 12, lines 52-61).

See Office Action at 4 (emphasis added).

[0030] Furthermore, the Examiner indicates in a "Response to Arguments" section the following with regard to this Claim:

Applicant argues that Jaisimha does not teach "with the recording component being omitted if not authorized to record the multimedia content." In response, the examiner respectfully disagrees. In Figure 8A and 8B, Jaisimha teaches that if the media player cannot

decode media data (the media player does not authorize to record the multimedia content), the session is terminated and therefore the recording component is omitted. Applicant argues that Jaisimha does not teach "the user interface component is destroyed when a differing view of the user interface component is chosen." In response, the examiner respectfully disagrees. Jaisimha teaches the user interface component is destroyed when a differing view of the user interface component is chosen in Fig. 3. When the user chooses "PLAY FOO CUP NOW, the current screen is disappeared (user interface component is destroyed), and FOO CUP will be played on the screen.

See Office Action at 2-3 (emphasis added).

[0031] As discussed and agreed-on during the Telephone Interview of March 11, 2009, Jaisimha does not describe the elements of amended Claim 1. For example, Jaisimha does not describe the elements of "selectively providing a recording component in the linked set of components to record the multimedia content if the computing device is determined to have the authority to record the multimedia content," and/or "rendering the multimedia content with use of the linked set of components, wherein the linked set of components does not include the recording component if the computing device is determined not to have the authority to record the multimedia content" of Claim 1. In fact, as discussed and agreed-on during the Telephone Interview of March 11, 2009, the cited portions of Jaisimha, and Jaisimha in general, teach away from the elements of Claim 1; e.g., see the Examiner provided description for Figures 8A and 8B of Jaisimha. *See Office Action at 2-3.*

[0032] Consequently, Jaisimha does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 2-9, 11-20, and 55

[0033] These claims ultimately depend upon independent Claim 1. As discussed above, Claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Claims 29-43, 57, and 58

[0034] Applicant respectfully submits that similar arguments apply with equal force to the §102 rejection of independent Claims 29 and 37 and those Claims dependent thereon. Thus, Applicant respectfully submits that Claims 29 and 37, and those Claims dependent thereon are patentably distinct over Jaisimha and are thus allowable.

[0035] With respect to Claim 32, Applicant notes that Claim 32 is cancelled thereby rendering its rejection moot.

[0036] Applicant also asserts that numerous ones of the dependent Claims recite further distinctions over the prior art. However, since the independent Claims have been shown to be patentably distinct, a further discussion of the dependent Claims is not necessary at this time.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0037] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

Based upon Jaisimha

[0038] The Examiner rejects Claims 11-14, 17, 21-28, 35, 41, 43-46, 56 and 59 under 35 U.S.C. § 103(a) as being unpatentable over Jaisimha over various other references. Applicant respectfully traverses the rejection of these Claims and asks the Examiner to withdraw the rejection of these claims.

Independent Claim 21

[0039] Applicant submits that the combination of Jaisimha and Kimura does not teach or suggest at least the following features as recited in this Claim (with emphasis added):

- **creating a first recording component in the first linked set of components to record the audio content if the computing device is determined to have the authority to record the audio content, and a second recording component in the second linked set of**

- components to record video content if the computing device is determined to have the authority to record the video content; and**
- providing audio output from the first linked set of components and video output from the second linked set of components, **with the first recording component being omitted from the first linked set of components if the computing device is determined not to have the authority to record the audio content and the second recording component being omitted from the second linked set of components, if the computing device is determined not to have the authority to record the video content.**

[0040] The Examiner indicates the following with regard to this claim:

Consider claim 21, Jaisimha et al. and Kimura teach a method comprising: receiving a stream of multimedia content from a source (Fig. 5 of Jaisimha et al.); separating the streamed multimedia content into audio content and video content (34 of Fig. 1 of Kimura); initiating a first linked set of components to process the audio content, and a second linked set of components to process the video content (col. 8, lines 28-30 and col. 9, lines 16-23); creating a first recording component in the first linked set of components to record the audio content if authorized, and a second recording component in the second linked set of components to record video content if authorized (col. 13, lines 19-28); and providing audio output from the first linked set of components and video output from the second linked set of components (col. 12, lines 52-61), with the first and second recording components being omitted if not authorized to record multimedia content (Fig. 8A, Fig. 8B, and col. 12, lines 52-61).

Jaisimha et al. and Kimura teach the claimed invention except for a first and a second linked set of components to process, record, and

output video and audio contents respectively. It would have been obvious to one of ordinary skill in the art at the time the invention was made to separate the linked set of components that are able to process, record, and output video and audio contents into two linked sets of components since it has been held that constructing formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

See Office Action at 9-10.

[0041] Furthermore, the Examiner indicates in a "Response to Arguments" section the following with regard to this Claim:

Applicant argues that Jaisimha does not teach "with the recording component being omitted if not authorized to record the multimedia content." In response, the examiner respectfully disagrees. In Figure 8A and 8B, Jaisimha teaches that if the media player cannot decode media data (the media player does not authorize to record the multimedia content), the session is terminated and therefore the recording component is omitted. Applicant argues that Jaisimha does not teach "the user interface component is destroyed when a differing view of the user interface component is chosen." In response, the examiner respectfully disagrees. Jaisimha teaches the user interface component is destroyed when a differing view of the user interface component is chosen in Fig. 3. When the user chooses "PLAY FOO CUP NOW, the current screen is disappeared (user interface component is destroyed), and FOO CUP will be played on the screen.

See Office Action at 2-3 (emphasis added).

[0042] As discussed and agreed-on during the Telephone Interview of March 11, 2009, neither Jaisimha nor Kimura describe certain elements of amended Claim 21. For example, neither Jaisimha nor Kimura describe the elements of "creating a first recording component in the first linked set of components to record the audio content if the computing device is determined to have the authority to record the audio content, and a second recording component in the second linked set of components to record video content if the

computing device is determined to have the authority to record the video content” and “providing audio output from the first linked set of components and video output from the second linked set of components, with the first recording component being omitted from the first linked set of components if the computing device is determined not to have the authority to record the audio content and the second recording component being omitted from the second linked set of components, if the computing device is determined not to have the authority to record the video content” of Claim 21. In fact, as discussed and agreed-on during the Telephone Interview of March 11, 2009, the cited portions of Jaisimha, and Jaisimha in general, teach away from the elements of Claim 21; e.g., see the Examiner provided description for Figures 8A and 8B of Jaisimha. *See Office Action at 2-3.*

[0043] As shown above, the combination of Jaisimha and Kimura does not teach or suggest all of the elements and features of this Claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this Claim.

Dependent Claims 22-28 and 56

[0044] These claims ultimately depend upon independent Claim 21. As discussed above, Claim 21 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these Claims may also be allowable for additional independent reasons.

Claims 44-46 and 59

[0045] Applicant respectfully submits that similar arguments apply with equal force to the §103 rejection of independent Claim 44 and those Claims dependent thereon. Thus, Applicant respectfully submits that Claim 44, and those Claims dependent thereon are patentably distinct over Jaisimha and Kimura and are thus allowable.

[0046] Applicant also asserts that numerous ones of the dependent Claims recite further distinctions over the prior art. However, since the independent Claims have been shown to be patentably distinct, a further discussion of the dependent Claims is not necessary at this time.

Conclusion

[0047] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call or email me at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC
Representatives for Applicant

/Martin R. Wojcik/ _____ Dated: 03/12/09

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